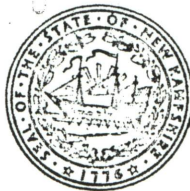


The State of New Hampshire

orig. material in 245,10

opinion

ATTORNEY GENERAL
WARREN B. RUDMAN
DEPUTY ATTORNEY GENERAL
DAVID H. SOUTER
ASSISTANT ATTORNEYS GENERAL
THOMAS B. WINGATE
JOSEPH A. DICLERICO, JR.
ROBERT V. JOHNSON, II
DONALD W. STEVER, JR.
DAVID W. HESS
JOHN C. BOECKELER
THOMAS D. RATH
ROGER G. BURLINGAME
CHARLES G. CLEAVELAND
EDWARD A. HAFFER
JOHN L. AHLGREN
GREGORY H. SMITH
RICHARD V. WIEBUSCH



Attorney General

Concord

ATTORNEYS
JOHN T. PAPPAS
W. JOHN FUNK
JOHN S. KITCHEN
EDWARD N. DAMON
JAMES L. KRUSE

October 1, 1975

Mr. Robert E. Whalen
Deputy Commissioner
Department of Safety
John O. Morton Building
85 Loudon Road
Concord, New Hampshire 03301

Dear Mr. Whalen:

This will reply to your letter dated August 26, 1975 in which you request our opinion as to whether the Director of the Division of Motor Vehicles may authorize the "display of a special bicentennial motor vehicle plate to be issued by any cities and towns that might wish to do so". In a phone conversation concerning the same question, you indicated that you were specifically interested in whether such a plate could be displayed on motor vehicles in place of the front number plate.

Throughout the time period from 1905, when New Hampshire first began to regulate the operation of motor vehicles (Laws 1905, Chapter 86:2), to 1943, all motor vehicles operated in this State were required to have two number plates conspicuously displayed thereon. In 1943, the Legislature delegated to the Commissioner of Motor Vehicles the power to "make special regulations relative to the number of plates, material and design thereof, and the location of said plate or plates on the vehicle". Laws of 1943, Chapter 3:2. By this amendment, the Legislature delegated to the Commissioner broad authority to determine not only the number of plates to be issued but also the material, design, and location thereof. This broad authority today resides in the Director of the Division of Motor Vehicles and is limited only by the provisions of other statutes wherein the Legislature has created special plates for special groups, such as RSA 260:10 (supp) and

October 1, 1975

RSA 260:11-b (supp), and by the requirement that number plates for non-commercial vehicles shall have the State motto written thereon. RSA 263:1 (supp).

Under the provisions of RSA 263:1 (supp), the Director is authorized to provide by regulation for the issuance of only one number plate. We are informed, however, that New Hampshire has always utilized the "dual plate" system as do thirty-five other states. Accordingly, under the provisions of RSA 260:9 (supp), all persons with motor vehicles presently registered in New Hampshire have been issued two plates for display on the front and back of their vehicles. Deliberate failure to display a plate duly issued therefor is a criminal act under the provisions of RSA 262:27-c (supp).

Your question, in light of the above, therefore, is whether by special regulation the Director has the authority to either issue front number plates subject to the condition that they need not be displayed for a specified period of time or to permit a presently issued front license plate to be covered over for a specified period of time.

It is our opinion that the Director's authority under RSA 263:1 (supp) to determine whether one or two plates will be issued impliedly authorizes him to issue such regulations, and, therefore, your question is answered in the affirmative. Because of the criminal sanctions referred to above, it is evident that specified time periods during which the front plate need not be displayed or may be covered over with a bicentennial plate must be set out in unambiguous regulations of which the public is specifically informed.

The bicentennial plate which various cities and towns may wish to issue will not be used for motor vehicle identification and will not be a "number plate" within the meaning of RSA 259:1, XIX, defining the same as

... the sign or marker furnished by the director, on which is displayed the number or mark of a motor vehicle assigned thereto by the director.

There is no prohibition, therefore, as to who must design, issue, or approve such a plate and the Director need play no role in making these determinations.

Mr. Whalen

- 3 -

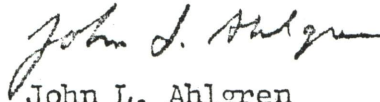
October 1, 1975

We wish to call your attention to the provisions of RSA 541-A, the Administrative Procedures Act, which requires certain public hearings before the adoption of any regulations which affect the public.

Sincerely,

A handwritten signature in cursive script, reading "Warren B. Rudman".

Warren B. Rudman
Attorney General

A handwritten signature in cursive script, reading "John L. Ahlgren".

John L. Ahlgren
Assistant Attorney General

JLA/tlr